

DOCKET FILE COPY ORIGINAL

OEC Control # 98-6681
Assigned To: Susan Steiner
Date: 8/11/98
Ltr # 10

William E. Kennard
Chairman
Federal Communications Commission
1919 M Street NW 20558

AUG 10 12 12 PM '98

July 16, 1998

OFFICE OF
GENERAL COUNSEL

OFFICE

JUL 21 5 15 PM '98

RECEIVED

Dear folks,

CIB Docket No. 98-44

I am requesting that you investigate my case and tell me why I have had to answer questions from journalists and interested parties about a FCC Order against me, which I have not received. It is quite unsettling to sit here writing this letter to y'all wondering why the FCC has not sent me any notification of this decision and what would happen to me if I did not have people out there keeping track of what y'all are trying to do to me.

I am sending you this letter in order to formally notify the FCC that I would like to appeal any decision made against me while I have not had an opportunity to replace my attorney who recently died nor allowed to have any pleadings considered which have been submitted on behalf of the myself, the **Hays County Guardian (Guardian)**, over 100 individuals, including the Mayor of San Marcos and two letters from the FCC which state that the FCC has no jurisdiction over interstate radio transmissions.

I reserve my right to send direct specific comments and appeal of the formal Order after I have had a chance to read a certified copy pursuant to Title 47 Chapter 1 Par 1 Subpart A Sec.1.47(e) and formally request notice from the FCC of any action they plan to take in this matter and that the FCC reinstate a date for a hearing to show cause why a case and desist order should not be issued to be held after alternative dispute resolution attempts are made.

This is the first time I have ever heard of a party where the defendant is not informed of a decision a Judge has made against him, therefore I request that you stay any Order filed against me by your Administrative Law Judge Richard Sipple in Docket No. 98-44 because of the failure of this judge to act in a manner consistent with justice and fair play.

I feel that as a private citizen and part of a non-corporate press organization we have been treated very shabbily and that your agency has become servile to corporate interests and incapable of fairly treating individual citizens interested in understanding and complying with your rules and regulations as is evidenced in the growing list of enforcement actions against micro-broadcasters struggling to reconcile FCC contradictions.

Furthermore, I am disappointed that a federal agency, which is attempting to bring the full force of their enforcement power down on me,

No. of Copies rec'd _____
List A B C D E

0+1

will not grant me the same respect and assistance with which you treat corporations.

From the very beginning of the **Guardian's** operation of **micro (u)Kind Radio San Marcos (uKind)** the intention of the **Guardian** remains to receive whatever licensing and registration was required for 30 watt transmission of non-commercial press public access political speech on the public's FM airwaves which have been stolen from us to sell advertising in the Austin market.

After reviewing Texas law, we registered **uKind** with the Texas Capitol Press Service satisfying state registration requirements.

Shortly after operation began, San Marcos Planning and Zoning Inspectors cited me for operating a radio broadcast facility in a residential zone without a permit. After a jury trial, I was found not guilty and did not require City permitting.

To this day, we still have not received a response from the FCC telling us what forms to use and what rules to follow in applying for a FCC license or waiver to do what we're doing.

During the time we have been waiting for a response from y'all, other than threats, **uKind** has provided San Marcos citizens conveniently with emergency information regarding cresting floods, tornadoes, lightening strikes, drought conditions, wildfire threats, mandatory water conservation requirements, bomb threats, and other hazardous conditions which were not available from any other source.

There have been 5 elections held during the time **uKind** has operated and during that time we have held live on-air interviews with a US Senator, US Congressman, former Texas Supreme Court Justice, former Texas Attorney General, former Texas State District Judge, Texas Railroad Commissioner, Hays County Judge, Mayor of San Marcos, San Marcos City Councilmen and San Marcos Consolidated School District Board Trustees as well as candidates for all of these as well as other political races. All candidates willingly participated in uncensored interviews and the entire community benefited from the free radio exposure.

This spring, for the first time in the history of San Marcos, the races for Mayor and two City Council positions were all thrown into a run-off election. On the very day, May 19, that I was supposed to be in Washington D.C. for pre-hearing conference that I could not afford to attend (financially or journalistically), I hosted a 7:00-10:00 PM "Meet the Candidates Forum" on **uKind**. Four of the six candidates, including the incumbent Mayor appeared on this show held just 11 days before the run-off.

Because of the tremendous public interest generated during the campaign, the National Association of Colored People (NAACP) and Nosotros La Gente (We the People) co-sponsored a Lincoln-Douglas style debate held on Memorial Day and they asked **uKind** to rebroadcast the debate the next day.

Despite the fact that the debate lasted almost 3 hours it was played twice, in its entirety without commentary, the next morning and evening. As a result of all of the radio coverage, voter turnout was higher in the run-off than in the general election, and was the highest vote total in over 20 years.

Needless to say, as is evidenced by the attached letters from David Leder, the San Marcos licensed station didn't interview any of the candidates or cover any of the debates despite candidate requests.

I was encouraged, at first, by your decision to offer me an opportunity to show cause why a cease and desist order should not be filed against me and the **Guardian** for the operation of **uKind** and present evidence including letters from the FCC stating that what we were doing was not under the jurisdiction of the FCC.

The first thing we did was tried to explain to the FCC the organizational and ideological structure of the **Guardian** and **uKind Radio**. Over 100 people, including the Mayor of San Marcos Billy Moore, have sent letters to the FCC stating that they have evidence to be considered in your action against me and most have requested party status and/or a change of venue so that they, as individual citizens could participate in this complex matter.

We felt that in such a forum we would be able to address falsehoods and inaccuracies in what the Compliance and Information Bureau (Bureau) was stating and be allowed to set the record straight on who owns, controls and operates **uKind** as well as work with FCC personnel in an alternative dispute resolution process which would allow for the resolution of the contradiction between letters the by the FCC's Office of Public Interest and Compliance and Information Bureau claiming and denying jurisdiction in this matter and if necessary processing in a timely and efficient manner whatever type of licensing requirements and forms which would be required.

What I have realized is that the FCC has obstructed the administration of justice, by refusing to obey laws already established in our Constitution by refusing to follow due process of law and by ignoring lawful challenges to their authority and has presumed authority in all cases whatsoever.

Furthermore, the FCC has used procedural maneuvers to obstruct the administration of justice for the sole purpose of draining our resources and fatiguing us into submission.

I note that the Bureau sent the Request for Admission of Facts and Genuineness of Documents on May 8, only 11 days prior to the pre-hearing conference I had requested be moved to San Marcos so that I would not have to hitch-hike to D.C.


The strict time guidelines clearly are evidence of the servile position of the FCC, in that no one but a corporation could afford to hire and maintain on call, the specialized type of lawyers needed to respond

to FCC mandates while arranging travel and accommodations in Washington D.C. under these conditions.

I do not own or control neither uKind nor any of the people who participate in the transmissions, which emanate from the station. The impact of any FCC action against me may serve in stopping me from broadcasting and result in the transmitter being moved from my house.

But, without a fair hearing over all of the issues involved in the micro-broadcasting revolution and particulars of our case with the possibility of settlement upon a satisfactory regulatory mechanism which provides for non-commercial press public access political speech low power FM broadcasting, this will be just one of thousands of similar actions the FCC will have to engage in to protect corporate rights to excessive profits over citizens rights to inform themselves.

Free the airwaves,

A handwritten signature in cursive script that reads "Joe Ptak".

Joe Ptak

Cc. Commissioner Susan Ness
Commissioner Michael Powell
Commissioner Harold Furchtgott-Roth
Commissioner Gloria Tristani

J. PTAK
505 PATRIGIA
SAN MARCOS, TX
78666

the right of the return address

CERTIFIED

Z 379 206 022

MAIL

RETURN RECEIPT
REQUESTED

8/4

8/11/98

William Kennard
Chairman
FCC
1919 M Street N.W.
Washington D.C. 20558



0000

U.S. POSTAGE
PAID
SAN MARCOS TX, TX
78666
JUL 17 '98
AMOUNT

\$2.77
00025542-01

